G.R.S. IX—5]

Previous references. 1923-4 (CB.) **File No.** 222/23

Serial No. 1

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial No. 1

Part B for May 1924

SUBJECT

Rules in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation

To the Secretaries to Govt.

Circ. 3588 dt 22/5/24

Lays down certain rules in regard to the procedure to be followed in the Sects. for dealing with measures of proposed legislation

(1

G. R. S. III-2]

General and Revenue Secretariat. | CB File No. 222 of 1923. CB-1751

Serial No.

The question has arisen more than once in the Council as to whether the responsibility for measures of proposed legislation should rest with the Member in charge of the Department concerned, or with the Member in charge of the portfolio of Legislation. In this connection, the following extract from the Report of the Government of India Secretariat Procedure Committee may be referred to. (The extract also refers to the creation of a Drafting Branch which is of interest to us):-

"In regard to the drafting of Government bills and Ordinances they (the Committee) find that it is being at present done by the Legislative Department. They consider that it is highly skilled technical work which does not lend itself to the ordinary departmental organisation and should not, in their opinion, fall on Secretaries or Deputy Secretaries who are liable to be absorbed by other urgent work. It should be done by a special staff of skilled Draftsmen who would give it their sole attention and whose services should be placed at the disposal of the Executive Department desiring to frame projects of legislation. They accordingly recommend the constitution of a separate Drafting Branch attached for administrative purposes only to the Legislative Department. The head of this Branch should be a skilled legal Draftsman and should be provided with a sufficient staff of assistants with legal knowledge who could be trained up to take their part in drafting. In the interests of expedition and the proper allocation of responsibility, they consider that all correspondence with regard to Draft Legisla

NOTE—Contn. sheet.

(2

G. R. S. III-2]

General and Revenue Secretariat. | CB File No. 222 of 1923.

Serial No.

Legislation should be conducted by the Department conversant with the subject matter and not by the Legislative Department though the latter should invariably be consulted as to whether the project is intra vires, whether it requires legislation to give effect to it or on the general legal principles involved"..... "We also consider that the services of the Drafting Branch should be placed at the disposal of the Executive Department at an early stage. It is a waste of time and energy if the officials of a department spend months in elaborating a preliminary draft which may be useless or worse than useless to the Draftsmen of the Legislative Department when the matter eventually passes into their hands.

Paragraph 32.

"In our judgment, the normal course of proceedings should be somewhat as follows:-

The Member in Charge of the Executive Department having determined that legislation for certain purposes is prima facie desirable, the department should, in minor cases, proceed at once to formulate its proposals with the assistance of the Drafting Branch. In cases of major importance it should first obtain the authority of the Executive Council to prepare a Bill on certain lines explained very briefly and in general in a Memorandum circulated for the purpose. It does not seem necessary or desirable that a definite Government decision to legislate should be required before a Draft is prepared. At this stage the Executive Department should in all cases place a responsible officer in direct, personal charge of all

NOTE—Contn. sheet.

Serial No.

matters relating to the Bill who should deal direct with the Draftsman and from whom the latter should take ~~in~~ his instructions, as the ordinary office procedure is quite unsuitable for handling a matter of its kind". The Draftsman should be responsible for keeping in touch with the Secretariat of the Legislative Department and on the general legal principles involved. When a Draft Bill has been prepared or at an earlier stage if desired, the necessary consultations with Local Government and other departments and bodies interested can take place and the revised draft will then be circulated to the Executive Council for final approval..... "We understand that it is invariably the practice at present for the Executive Council to see Bills after they have been drafted. But there appear to us to be distinct advantages in placing all Government of India Bills before the Executive at this stage instead of consulting the Executive Council Council merely when authority to prepare the Bill is obtained. It has been strongly represented to us that all Draft Bills immediately before submission to the Executive Council should be referred to the Secretariat of the Legislative Department for examination of the general legal principles involved. There is much to be said for this proposal during the transitory period when the new Drafting Branch is learning its work and its staff are not yet fully trained. If however, the practice is to be continued beyond the first few years stringent precautions will be necessary to limit the examination of Bills by the Secretariat so as to avoid the possibility both of business being held up and of duplicating the work allocated to the Drafting Branch"

NOTE—Contr. sheet.

(4

G. R S. III-2]

General and Revenue Secretariat. | C.S. File No. 222 of 1923.

Serial No.

"Referring to the advising of the Executive Department on certain classes of legal questions, they (the Committee) suggest that such questions should be referred to a Solicitors' Branch proposed to be newly constituted and through the Solicitor, if necessary, to the Advocate General at Calcutta. They suggest that all pure questions of legal opinion on the effect of the existing law in relation to a particular case submitted will be referred to the Solicitors' Branch as this work is not of a kind for which the Secretariat methods are suitable".

The Government of India in their Resolution dated 15th September 1920 "decided not to accept these recommendations as formulated by the Committee" but "accepted the necessity for some enlargement of the Legislative Department to meet future drafting requirements". However it appears to me that the following principles may be adopted in Mysore:-

(i) That there should be constituted a small Drafting Branch attached to the Local and Legislative Secretariat. The head of the Branch should be a - - skilled legal draftsman and should have an Assistant or two possessing legal knowledge.

(ii) The Member in Charge of any Department having come to the conclusion that legislation for certain purposes is prima facie desirable, the Administrative Branch of the Secretariat should, in minor cases, proceed at once to formulate its proposals with the assistance of the Drafting Branch. In cases of major importance it should first obtain the authority of the Executive Council to prepare a Bill on certain lines

NOTE—Contn. sheet.

G. R S. III-2]

General and Revenue Secretariat. | CS File No. 122 of 1923.

Serial No.

explained very briefly and in general in a Memorandum circulated for the purpose. It is not necessary or desirable that a definite Government decision to legislate should be required before a draft is prepared. At this stage the matter should be referred to the drafting Branch with instructions to prepare draft bill in close consultation with the Administrative Secretariat or the Head of the Department concerned. When a draft bill has been prepared, or at an earlier stage if desired, the necessary consultation with other Departments and bodies interested should take place and the draft as further revised if need be should then be placed before the Executive Council for final approval before being placed before the Legislative Council.

Submitted for consideration.

D E W A N)

7/5/23

This portion is intimately connected with our proposal [illegible] a measure to [illegible] Bureaucrat Tax. Training. Till [illegible] a skilled staff. I don't think any steps [illegible] necessary further.

It rests primarily with the Min in Ch. to indicate

NOTE—Contn. sheet.

(6

1751

G. R. S. III-2]

General and Revenue Secretariat. CB. File No. 222 of 1923.

Serial No.

Draft the record for legislation and the reasons which it had been drafted. Then the matter is to be the concern of the Ex. Council approved of it.

The legislation dept only then begin their and finalise the Bombay draft. Send it to the [illegible] for his acceptance or modification if necessary

After the approval of the draft, making object & reasons, this to go to the RA.

If the members of EC agree to the above proposals they may be adopted for the present

G.S.

1st member 2nd member) 6/1/25

Sign. N. may also be stated by Hon'ble Finance Member who had prepared his proposals & his draft to be placed before the RA.

Member in charge of his Legislative Department wants to see it is sent with draft. Bijpur it is sent with Member in charge of his branch, his draft will be placed before his Member in Charge of Legislation.

I suppose he means by his branch

NOTE—Contr. sheet.

(7

1751

G. R. S. III-2]

General and Revenue Secretariat. | CB File No. 222 of 1923

Serial No.

I think this answers Mr. Abell's remarks and does away with the necessity for his Legislative Secretary ~~attending~~ to the Hon'ble Legislative Secretary N. A.

Asst.

287 12.5.24

I agree & in proposed cuts as the Hon'ble Minister the Dewan may see fit. 11/5

Dr. M.S.

Asst. Secy. 12/5

Draft of O.M. is ordered.

Chief Secy. 14/5

Draft received & submitted for approval. Have added clause (f) subject to approval by 15/5

Chief Secy. Approved. Asst. Secy. to be called for 16/5

Dewan Peishkar 15/5

NOTE—Contn. sheet.

(8

G. R. S. III-2]

General and Revenue Secretariat. | C.B. File No. 222 of 1923. | 157

Serial No.	
1	To The Secretaries to Govt. O. m. No 3588 & 22.5.24 Lays down certain rules in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation D.S.N. submitted. Secy) 24/5

D... OFFICE.
REC... 26. MAY 1924
Reg. No. 8461

NOTE—Contn. sheet.

(9

Submitted to His Highness.

I beg to submit herewith for His Highness' gracious information, Official Memorandum No.3588/C.B. 222-23 dated 22nd May 1924 laying down certain rules in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation.

Bangalore,
27th May 1924.

27 MAY 1924

S.N.
GR.

(D

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Memo laying down certain rules in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation.

Order.

~~KRW~~

28/5/24

Chancy

29 MAY 1924

B/

(11

Draft

3588/CB.222-23-1 & 22/5/24.

Official Memorandum.

...

The question has arisen more than once as to whether the responsibility for measures of proposed legislation should rest with the Member of Council in charge of the Department concerned or with the Member in charge of the portfolio of legislation. The rules prescribed for the conduct of business in the Council of His Highness the Maharaja are silent on this matter. Government are accordingly pleased to direct that for the present, the procedure indicated below may be adopted:-

(a) The Member of ~~Council~~ in charge of the first Department concerned ~~will be primarily responsible~~ to indicate firstly the necessity for the proposed legislation and secondly the main lines on which it should be undertaken.

(b) The matter will then be considered in Council and the approval of His Highness the Maharaja obtained to the proposed legislation.

(c) The Legislative Department of the Secretariat will then prepare the preliminary draft and submit it to the Member in charge of the portfolio

The foll. rules are laid down in regard to the procedure to be followed in the Secretariat ~~in respect of~~ legislative proposals dealing with measures of proposed legislation

12)

portfolio of ~~the~~ Legislation.

(d) The draft will after ~~it is placed~~ Scrutiny by ~~before~~ the Member in charge of the portfolio of Legislation be submitted to the Member in charge of the Department concerned.

(e) After approval by the Member in charge of the Department, the Administrative Branch of the Secretariat will prepare the statement containing the principles of the bill and return the bill with such statement to the Legislative Department for being transmitted to the Secretary, Representative Assembly for being placed before that body.

(f). ~~which the passage of the bill~~ ± The Members of ~~Council~~ in charge of the ~~Depts~~ concerned ~~will~~ (or in their ~~absence~~ Depts included in the Schedule to the Rules of Business, one of the Members of Council nominated for the purpose by the Member in charge of the Department) ~~will~~ when its principles are considered by the R.A., ~~should~~ prepare the bill ~~for~~ the ~~Legislative~~ Council.

~~Chief~~ Secretary to Govt.
14/5

WP 14.5

I.

The Secretaries to Govt.
Copies sent to Secretary to Member (cyclostyled)
The Secretary to R.A. Legislative Council

General & Revenue Secretariat,

Dated, Bangalore, the 22nd May 1924.

No.3588/C.B.222-23-1.

OFFICIAL MEMORANDUM.

The following rules are laid down in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation:--

(a) It will rest primarily with the Member of Government (in charge of the Department) concerned to indicate firstly the necessity for the proposed legislation and secondly the main lines on which it should be undertaken.

(b) The matter will then be considered in Council and the approval of His Highness the Maharaja obtained to the proposed legislation.

(c) The Legislative Department of the Secretariat will then prepare the preliminary draft and submit it to the Member in charge of the portfolio of Legislation.

(d) The draft will after scrutiny by the Member in charge of the portfolio of Legislation be submitted to the Member in charge of the Department concerned.

(e) After approval by the Member in charge of the Department, the Administrative Branch of the Secretariat will prepare the statement containing the principles of the bill and return the bill with such statement to the Legislative Department for being transmitted to the Secretary, Representative Assembly, for being placed before that body.

(f) The Member of Government in charge of the Department concerned (or in the case of Departments ~~xxx~~ included

in the Dewan's portfolio, one of the Members of Govt. or Secretaries to Government nominated by the Dewan) will be in charge of the bill, when its general principles are considered by the Representative Assembly, and during the passage of the bill through the Legislative Council.

By order,

(Sd.) K. Matthan,

Chief Secretary to Government.

To

The Secretaries to Government.

The Secretary to Rep. Assembly & Leg. Council

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS

No. 3588/C. B. 222-23-1 dated Bangalore, the 22nd May 1924.

Legislation.

Lays down certain rules for dealing with measures of proposed-----

---

OFFICIAL MEMORANDUM.

The following rules are laid down in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation:--

(a) It will rest primarily with the Member of Government in charge of the Department concerned to indicate firstly the necessity for the proposed legislation and secondly the main lines on which it should be undertaken.

(b) The matter will then be considered in Council and the approval of His Highness the Maharaja obtained to the proposed legislation.

(c) The Legislative Department of the Secretariat will then prepare the preliminary draft and submit it to the Member in charge of the portfolio of Legislation.

(d) The draft will after scrutiny by the Member in charge of the portfolio of Legislation be submitted to the Member in charge of the Department concerned.

(e) After approval by the Member in charge of the Department, the Administrative Branch of the Secretariat will prepare the statement containing the principles of the bill and return the bill with such statement to the Legislative Department for being transmitted to the Secretary, Representative Assembly, for being placed before that body.

(f) The Member of Government in charge of the Department concerned (or in the case of Departments included in the Dewans' portfolio, one of the Members of Government or Secretaries to Government nominated by the Dewan) will be in charge of the bill, when its general principles are considered by the Representative Assembly, and during the passage of the bill through the Legislative Council.

By Order,
K. MATTHAN,
Chief Secretary to Government.

To--The Secretaries to Government.
The Secretary to the Representative Assembly and Legislative Council.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS

No. 3588/C. B. 222-23-1 dated Bangalore, the 22nd May 1924.

Legislation.

Lays down certain rules for dealing with measures of proposed———

OFFICIAL MEMORANDUM.

The following rules are laid down in regard to the procedure to be followed in the Secretariat for dealing with measures of proposed legislation:—

(a) It will rest primarily with the Member of Government in charge of the Department concerned to indicate firstly the necessity for the proposed legislation and secondly the main lines on which it should be undertaken.

(b) The matter will then be considered in Council and the approval of His Highness the Maharaja obtained to the proposed legislation.

(c) The Legislative Department of the Secretariat will then prepare the preliminary draft and submit it to the Member in charge of the portfolio of Legislation.

(d) The draft will after scrutiny by the Member in charge of the portfolio of Legislation be submitted to the Member in charge of the Department concerned.

(e) After approval by the Member in charge of the Department, the Administrative Branch of the Secretariat will prepare the statement containing the principles of the bill and return the bill with such statement to the Legislative Department for being transmitted to the Secretary, Representative Assembly, for being placed before that body.

(f) The Member of Government in charge of the Department concerned (or in the case of Departments included in the Dewans' portfolio, one of the Members of Government or Secretaries to Government nominated by the Dewan) will be in charge of the bill, when its general principles are considered by the Representative Assembly, and during the passage of the bill through the Legislative Council.

By Order,
K. MATTHAN,
Chief Secretary to Government.

To—The Secretaries to Government.
The Secretary to the Representative Assembly and Legislative Council.